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11 *Attorneys for Defendants*

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 IN RE LUMINENT MORTGAGE CAPITAL,  
17 INC. SECURITIES LITIGATION

Case No.: C-07-04073 PJH

18  
19 **CONFIDENTIALITY STIPULATION  
AND [~~PROPOSED~~] ORDER  
REGARDING PRE-MEDIATION  
DISCLOSURE MATERIALS  
AS MODIFIED BY THE COURT**

20 This Document Relates To:

21 ALL ACTIONS  
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The Honorable Phyllis J. Hamilton

1           Lead Plaintiff The Southern Improvement Company, VSA, Inc. and Allen Dayton  
2 (collectively "Plaintiff"), by and through their counsel Lowey Dannenberg Cohen & Hart, P.C. and  
3 Berman DeValerio Pease Tabacco Burt & Pucillo (collectively "Plaintiff's counsel"); and  
4 Defendants Luminent Mortgage Capital, Inc. ("Luminent" or the "Company"), S. Trezevant Moore,  
5 Jr., Christopher J. Zyda, and Gail P. Seneca (collectively "Defendants"), by and through their  
6 counsel Heller Ehrman LLP ("Defense counsel") hereby stipulate and agree, pursuant to Federal  
7 Rule of Civil Procedure 26(c), to this Confidentiality Agreement and Order ("Agreement") in *In re*  
8 *Luminent Mortgage Capital, Inc. Securities Litigation* (Case No.: C-07-04073 PJH) ("Class Action  
9 Litigation") pending in the United States District Court for the Northern District of California (the  
10 "Court").

11           The parties have agreed to discuss the possibility of resolving this matter and have therefore  
12 scheduled a mediation session before David Geronemus of JAMS, in New York City, on July 11,  
13 2008. Plaintiff and Plaintiff's counsel and Defendants and Defense counsel have agreed that the  
14 prospects for successful mediation may be improved if certain limited materials are provided to  
15 Plaintiff solely for the purpose of facilitating ongoing settlement discussions in the Class Action  
16 Litigation.

17           Defendants have filed a motion to dismiss Plaintiff's Consolidated Class Action Complaint  
18 (the "Complaint"), and in consequence, under the Private Securities Litigation Reform Act of 1995  
19 ("PSLRA"), discovery in this action is stayed and Plaintiff is not entitled to conduct discovery for  
20 the purposes of amending, modifying or improving the Complaint. For the parties to be able to  
21 engage in early settlement negotiations with the benefit of information that may not be available in  
22 the public domain, while at the same time protecting Defendants from the prejudice that might  
23 result from their production of internal corporate documents to Plaintiff prior to expiration of the  
24 PSLRA stay and while a motion to dismiss is pending, the parties have entered into this  
25 Confidentiality Stipulation Regarding Pre-Mediation Disclosure Materials for the purpose of  
26 maintaining the confidentiality, and limiting the use, of certain materials and information provided  
27 hereunder. Accordingly,  
28

1 IT IS HEREBY AGREED:

2 1. **Pre-Mediation Disclosure Material.** Documents produced by Defendants to  
3 Plaintiff hereafter in connection with Plaintiff's pre-mediation disclosure requests shall be  
4 considered Pre-Mediation Disclosure Material. Pre-Mediation Disclosure Material shall also  
5 include any information copied or extracted from such documents, as well as copies, excerpts,  
6 summaries, or compilations thereof. In addition to any additional provisions below, California  
7 Evidence Code sections 1119, 1120 and 1126 shall apply to all Pre-Mediation Disclosure Material.

8 2. **Use of Pre-Mediation Disclosure Material.** All Pre-Mediation Disclosure Material  
9 described in No.1 above, and any information contained therein or derived therefrom, shall be used  
10 only in this action and no other litigation or proceeding; shall be used solely for the purpose of  
11 facilitating ongoing settlement discussions in the Class Action Litigation, and for no other purpose;  
12 and shall not be disclosed to anyone, except counsel in this action, non-testifying consultants in this  
13 action who are bound to preserve the confidentiality of such materials, or David Geronemus, the  
14 mediator jointly designated by Plaintiff and Defendants, *provided* that nothing herein shall preclude  
15 Plaintiff's counsel from disclosing Pre-Mediation Disclosure Material or their contents to Plaintiff,  
16 subject to such Plaintiff's agreement in writing to be bound by this Stipulation.

17 3. **Restrictions on Use.** Defendants have filed a motion to dismiss Plaintiff's  
18 complaint on the grounds that it does not meet the standards set forth in the PSLRA. Discovery of  
19 Pre-Mediation Disclosure Material is not otherwise available to Plaintiff under the PSLRA while a  
20 motion to dismiss is pending unless permitted by order of the Court pursuant to 15 U.S.C. § 78u-  
21 4(b)(3), and Pre-Mediation Disclosure Material shall not be used in any way to modify, amend or  
22 improve any complaint in this action, nor as the basis for evidence or arguments that might be  
23 offered in opposition to any motion to dismiss filed pursuant to the PSLRA. Pre-Mediation  
24 Disclosure Material may not be used for any purpose other than in connection with settlement  
25 analysis, settlement negotiations, and mediation in this action. No Pre-Mediation Disclosure  
26 Material may be filed with the Court or attached as exhibits to any pleading or filing, and no Pre-  
27 Mediation Disclosure Material may be quoted, paraphrased, summarized, digested or referred to by  
28 Plaintiff in any pleading or other filing in court under any circumstances without the prior written

1 consent of Defendants. Nothing herein, however, limits Plaintiff's ability to use any Pre-Mediation  
2 Disclosure Material that is subsequently and independently produced in discovery in later  
3 proceedings.

4       **4. Return and/or Destruction of Pre-Mediation Disclosure Material.** If the parties  
5 are not able to achieve a settlement in principle at the mediation, then, within thirty (30) days after  
6 the mediation before David Geronemus has concluded, all Pre-Mediation Disclosure Material and  
7 copies thereof, including Pre-Mediation Disclosure Material in the hands of non-testifying  
8 consultants, shall be returned to Defendants and/or destroyed. Plaintiffs shall delete confidential  
9 Pre-Mediation Disclosure Material from all internal work product of Plaintiff's counsel, agents, and  
10 consultants, including copies, excerpts, summaries, or compilations thereof. Plaintiff's counsel  
11 shall immediately certify in writing that the confidential Pre-Mediation Disclosure Material has  
12 been destroyed, deleted and eliminated in the manner required herein.

13       **5. Information Not Subject to the Terms of this Agreement.** This Agreement has  
14 no effect upon, and shall not apply to, a party's use or disclosure of its own confidential information  
15 for any purpose. Nothing contained herein shall impose any restrictions on the use or disclosure by  
16 a party of documents, information or material obtained lawfully by such party independently of this  
17 Agreement.

18       **6. Preservation and Termination Provision.** Pre-Mediation Disclosure Material will  
19 not obtain immunity or exclusion from discovery by virtue of production under this Agreement, and  
20 after the expiration or lifting by Court order pursuant to 15 U.S.C. § 78u-4(b)(3)(D) of any stay of  
21 discovery in this civil action, may subsequently be subject to discovery as and to the extent  
22 permitted by Rules 26 to 27 of the Federal Rules of Civil Procedure. Nothing in this Stipulation  
23 shall preclude Plaintiff's counsel from hereafter seeking discovery of any documents or information  
24 from Defendants, nor preclude Defendants from objecting to any request by Plaintiff's counsel for  
25 such documents or information, in accordance with the Federal Rules of Civil Procedure and the  
26 PSLRA. Nothing in this Stipulation shall limit the preservation obligations of any party under  
27 Section 21D(b)(3)(C) of the Exchange Act, 15 U.S.C. §78u-4(b)(3)(C).  
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1           7.       **Execution.** This Agreement may be signed in counterparts, each of which shall be  
2 deemed an original but all of which shall be deemed to constitute a single instrument.

3           8.       **Jurisdiction.** All persons who have access to information or material produced  
4 according to this Agreement acknowledge that they are bound by this Agreement and submit to the  
5 jurisdiction of this Court for purposes of enforcing this Agreement.

6           9. ~~**Survival.** Final termination of this proceeding shall not terminate the limitations on~~  
7 ~~use and disclosure imposed by this Agreement, which shall remain in effect until the parties agree~~  
8 ~~otherwise or the Court otherwise directs.~~ PJH

9           10.      **Entire Agreement.** This Agreement contains the entire agreement between Plaintiff  
10 and Defendants regarding its subject matter.

11  
12 IT IS SO STIPULATED:

13  
14 Dated: June 19, 2008

HELLER EHRMAN LLP

15  
16 By: /s/ Daniel J. Dunne

DANIEL J. DUNNE

17 Attorneys for Defendants Luminent Mortgage Capital,  
18 Inc., S. Trezevant Moore, Jr., Christopher J. Zyda, and  
Gail Seneca

19 Dated: June 19, 2008

20 LOWEY DANNENBERG COHEN & HART, P.C.

21  
22 By: /s/ David C. Harrison

DAVID C. HARRISON

23 Lead Counsel and Attorneys for Lead Plaintiff and the  
24 Putative Class

25 Dated: June 19, 2008

BERMAN DeVALERIO PEASE TABACCO BURT  
& PUCILLO

26 By: /s/ Nicole LaVallee

NICOLE LAVALLEE

27 Local Counsel for Lead Plaintiff and the Putative Class  
28

1 Pursuant to Stipulation, IT IS SO ORDERED.

2 Dated: 6/23/08

